IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

OP.No. 34123 of 2000(K)

PETITIONER:

THE TRAVANCORE RUBBER & TEA CO. LTD.,
PATTOM PALACE P.O., TRIVANDRUM 695 004
REP. BY ITS DIRECTOR, SHRI.S.RAMAKRISHNA SARMA.

BY ADV. SRI.JOSEPH KODIANTHARA
SRI.THOMAS VELLAPPALLY

RESPONDENTS:

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1. STATE OF KERALA, REP. BY CHIEF SECRETARY
TO GOVERNMENT, SECRETARIAT, TRIVANDRUM.

2. STATE OF KERALA, REP. BY SECRETARY TO
GOVERNMENT, DEPARTMENT OF LABOUR,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

3. THE LABOUR COMMISSIONER, TRIVANDRUM.

4. THE REGIONAL JOINT LABOUR COMMISSIONER,
KAKKANAD, ERNAKULAM.

5. THE SUPERINTENDENT OF POLICE, IDUKKI.

6. THE DEPUTY SUPERINTENDENT OF POLICE, KATTAPANA.

7. THE DEPUTY SUPERINTENDENT OF POLICE, KANJIRAPPALLY.

8. THE CIRCLE INSPECTOR OF POLICE, PEERMADE.

9. .DO. PONKUNNAM.

10. THE SUB INSPECTOR OF POLICE, PERUVANTHANAM.

11. .DO. MUNDAKKAYAM.

12. THE GENERAL SECRETARY, HEL UNION, (AITUC),
REGD. NO.103/65, PEERMADE P.O.

13. THE GENERAL SECRETARY, MR.P.D.GEORGE, THIRUKOCHI THOTTAM THOZHILALY UNION (INTUC), MUNDAKKAYAM.P.O.

14. THE SECRETARY, HILLRANGE ESTATE EMPLOYEES ASSOCIATION(CITU), MUNDAKKAYAM P.O.

15. THE GENERAL SECRETARY, KERALA STATE ESTATE LABOUR UNION (INTUC), PEERMADE P.O.

16. GENERAL SECRETARY, MR.THOMAS KALLADAN, THIRUKOCHI THOTTAM THOZHILALY UNION (INTUC), MUNDAKKAYAM P.O.

R1 TO 11 BY G.P. SRI.HOOD
BY ADV. SRI.C.R.RADHAKRISHNAN
SRI.P.RADHAKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON 23/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.58323/2000 IN O.P. NO.34123/2000

DISMISSED:

23.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ORDER DT.13.1.2000 IN CMP NO.2381/2000 IN O.P. NO.1500/2000.

P2: TRUE COPY OF ORDER DT.27.1.2999 .DO.

P3: TRUE COPY OF LETTER DT.25.1.2000 OF PETITIONER TO THE POLICE OFFICIALS.

P4: .DO. DT.31.1.2000 OF PETITIONER'S ADVOCATES TO THE POLICE OFFICIALS.

P5: TRUE COPY OF ORDER DT.22.3.2000 OF KERALA HIGH COURT TO POLICE OFFICIALS.

P6: .DO. DT.18.4.2000 IN CMP NO.14774/2000 IN O.P. NO.1500/2000.

P7: .DO.22.5.2000 IN CMP NO.22460/2000 .DO.

P8: TRUE COPY OF LETTER DT.31.3.2000 OF PETITIONER TO THE DIRECTOR GENERAL OF POLICE.

P9: .DO. DT.3.4.2000 OF PETITIONER TO THE SUPDT. OF POLICE AND OTHERS.

P10: TRUE COPY OF REPORT DT.19.6.2000 OF THE ADVOCATE COMMISSION.

P11: TRUE COPY OF ORDER DT.21.2.2000 OF THE KERALA HIGH COURT IN C.C.C. NO.73/2000.

P12: TRUE COPY OF BILL DT.2.3.2000 OF THE SUPERINTENDENT OF POLICE, IDUKKI.

P13: .DO. DT.24.4.2000 OF .DO.

P14: .DO. DT.11.2.2000 OF .DO.

P15: TRUE COPY OF REPLY DT.13.3.2000 OF THE PETITIONER TO THE SUPT. OF POLICE, IDUKKI.

P16: .DO. DT.8.5.2000 .DO.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.34123 of 2000

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Dated this the 23rd day of March, 2007.

JUDGMENT

The O.P. is filed for direction to grant compensation for loss suffered by the petitioner's estate on account of mischief committed by petitioner's own employees who were on strike. According to the petitioner, it is the duty of the State to protect loss to petitioner's property, more so, when Police protection was ordered by this court. I do not think there is any scope for award of compensation in writ proceedings because without taking evidence, case cannot be considered if at all tenable. In the circumstances, the petitioner is given freedom to file suit for damages after issuing notice to the State.

2. The next issue is challenge against charges demanded by respondents for providing Police protection to the petitioner. Referring to Ext.P11 Government Pleader submitted that the Division Bench judgment relied on by the petitioner i.e. in DISTRICT SUPERINTENDENT OF POLICE V. GEORGE (200(1) KLT 628), is not applicable because this is an exceptional case where petitioner undertook to pay the cost based on which Police force was mobilized and deployed in the estate for running the

estate. The Division Bench in the decision relied on by the petitioner has also assumed that charges could be recovered by the Sate in exceptional cases. This court has no doubt held that maintenance of law and order is the duty of the Police and is a sovereign function of the State. However, this is a case where Police assisted the petitioner to run the estate i.e. to earn income. Therefore the Government Pleader also pointed out that having regard to the extent of estate which runs into 3000 acres, substantial amount is spent for vehicle and manpower in providing Police protection. In the circumstances, I feel this is a case different from the case decided by this court. Demand is also stated to be in accordance with the guidelines issued by the Government. However, in the course of labour unrest, there is an element of law and order problem and it is the duty of the State to maintain it. In the circumstances and having regard to the peculiar facts of the case, I modify the demand by reducing the amount to one third of the demand with direction to the petitioner to pay it on or before 30.5.2007, failing which recovery of one third of demand will be made.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

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